

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JAMES ABRON and DEPARTMENT OF DEFENSE,  
DeCA COMMISSARY, Fort Benning, GA

*Docket No. 98-612; Submitted on the Record;  
Issued August 18, 1999*

---

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether appellant established that he sustained an injury causally related to factors of his federal employment.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not established that he sustained an employment-related injury.

The facts in this case indicate that on December 7, 1995 appellant, then a 64-year-old customer service representative, filed a claim alleging that he injured his head when he fell to the floor. He stopped work that day. An employing establishment incident report recounted the incident. By letter dated October 4, 1996, the Office of Workers' Compensation Programs informed appellant of the type of evidence needed to support his claim, to include a detailed narrative report from his physician including a history of injury, diagnosis and an opinion on the relationship of the diagnosed condition to employment activity. He was given 30 days to respond. By decision dated November 11, 1996 and finalized November 14, 1996, the Office denied the claim on the grounds that the medical evidence of record was insufficient to establish that appellant's condition was employment related. Appellant, through his agent, timely requested reconsideration and submitted additional evidence. In an April 2, 1997 decision, the Office denied modification of the prior decision. The instant appeal follows.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim<sup>2</sup> including the fact that the individual is an "employee of the United States" within the meaning of the Act,<sup>3</sup> that the claim

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.110.

<sup>3</sup> See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

was timely filed within the applicable time limitation period of the Act,<sup>4</sup> that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>5</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup> However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.<sup>7</sup>

Causal relationship is a medical issue,<sup>8</sup> and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>9</sup> Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup>

In support of his claim, appellant submitted reports<sup>11</sup> dated January 4 and 8, 1996 in which Dr. Roger O'Bryan, an osteopathic physician, diagnosed hyperglycemia and advised that appellant was emotionally disturbed and severely depressed and could not return to work until evaluated by a psychiatrist. In a February 24, 1997 report, Dr. O'Bryan advised that appellant "fell on the job on December 7, 1995 and thus reinjured himself."

The Board finds that, while the December 7, 1995 employment incident occurred, appellant has not established that the employment incident resulted in an injury, as the record contains no rationalized medical evidence that relates appellant's condition to the employment incident. Dr. O'Bryan provides no explanation of how the December 7, 1995 fall caused appellant's conditions.

---

<sup>4</sup> 5 U.S.C. § 8122.

<sup>5</sup> See *Melinda C. Epperly*, 45 ECAB 196 (1993).

<sup>6</sup> See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> See *Robert A. Gregory*, 40 ECAB 478 (1989).

<sup>8</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>9</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 6.

<sup>10</sup> *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

<sup>11</sup> Appellant also submitted statements dated January 9 and March 7, 1996 respectively, in which Drs. Kishor Desai and Arnold J. Weil advised that appellant could return to work in March 1996.

The decision of the Office of Workers' Compensation Programs dated April 2, 1997 is hereby affirmed.

Dated, Washington, D.C.  
August 18, 1999

Michael J. Walsh  
Chairman

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member